

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JOSE ESCOBEDO,

Plaintiff,

v.

MARIA GLORIBEL VIDES GUARDADO,
et al.,

Defendants.

Case No. 1:23-cv-00329-SAB

ORDER DIRECTING CLERK OF COURT
TO CLOSE CASE AND ADJUST THE
DOCKET TO REFLECT VOLUNTARY
DISMISSAL PURSUANT TO RULE 41(a)
OF THE FEDERAL RULES OF CIVIL
PROCEDURE

(ECF Nos. 23, 25)

On September 6, 2023, a stipulation was filed by the appearing Defendants, dismissing this action with prejudice and with each party to bear its own costs and fees. (ECF No. 23.) The filed stipulation did not specifically state whether the claims against the non-appearing and defaulted Defendant were to be dismissed with prejudice as well. On September 8, 2023, Plaintiff filed a notice of dismissal indicating that Defendant Maria Gloribel Vides Guardado Doing business as Mariscos El Patron Mexican Food is also dismissed from this action with prejudice. (ECF No. 25.)

Under Rule 41(a)(1)(A)(i) of the Federal Rules of Civil Procedure, ‘a plaintiff has an absolute right to voluntarily dismiss his action prior to service by the defendant of an answer or a motion for summary judgment.’ ” Commercial Space Mgmt. Co., Inc. v. Boeing Co., Inc., 193 F.3d 1074, 1077 (9th Cir. 1999) (quoting Wilson v. City of San Jose, 111 F.3d 688, 692 (9th Cir. 1997)). Additionally, Federal Rule of Civil Procedure 41(a)(1)(A)(ii) provides that a “plaintiff

1 may dismiss an action without a court order by filing a stipulation of dismissal signed by all
2 parties who have appeared.” Fed. R. Civ. P. 41(a)(1)(A)(ii).

3 In light of the stipulation of the parties and notice of dismissal, this action has been
4 terminated, Fed. R. Civ. P. 41(a)(1)(A)(i)-(ii); Wilson v. City of San Jose, 111 F.3d 688, 692 (9th
5 Cir. 1997), and has been dismissed with prejudice and without an award of costs or attorneys’
6 fees.

7
8 IT IS SO ORDERED.

9 Dated: September 11, 2023


UNITED STATES MAGISTRATE JUDGE